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8 Attorney for plaintiff Cassar Industries, Inc.

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10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 SAN JOSÉ DIVISION

14 No. 5:18-cv-7280

15 CASSAR INDUSTRIES, Inc., doing
16 business as FLEXSWEEP
17 INDUSTRIES,

18 *Plaintiff,*

19 *v.*

20 HORIZON GLOBAL AMERICAS, INC.
21 doing business as CEQUENT
22 CONSUMER PRODUCTS,

23 THE AMES COMPANIES, Inc., doing
24 business as HARPER BRUSH
25 WORKS,

26 *Defendants.*

27 Plaintiff Cassar Industries, Inc. complains as follows:

28 1. Cassar Industries is a California corporation with its principal place of business in
Santa Cruz County, California.

2. Defendant Horizon Global Americas, Inc. is a Delaware corporation with its
29 principal place of business in Plymouth, Michigan. Horizon Global Americas is the
successor corporation to Laitner Brush Company and to Cequent Consumer Products,
Inc.

3. Defendant the AMES Companies, Inc. is a Delaware corporation with its principal
place of business in Camp Hill Pennsylvania. The AMES Companies bought Harper

1 Brush Works from Horizon Global Americas in 2018.

2 4. This court has jurisdiction of this case under Title 28, United States Code, section
 3 1338.

4

5 **FIRST COUNT (Contributory Trademark Infringement)**

6 5. Plaintiff incorporates paragraphs 1 through 4 into this count.

7 6. In 2001, the United States Patent and Trademark Office issued patent number
 8 6,279,189 to Simon Cassar for a “flexible insert with stop limits for brush broom handles”
 9 that makes brush handles virtually unbreakable. Cassar assigned the patent to plaintiff.

10 7. In 2008, plaintiff began selling FlexSweep broom connectors to defendants.

11 8. After Cequent Consumer Products bought Laitner Industries, it continued to buy
 12 FlexSweep broom connectors. Cequent marketed the connectors on brooms and mops
 13 under the brand names Laitner, Cequent, and Harper, placing them on the following
 14 products:

Cequent Product No.	Product
918	Deck scrub brush
1421	28-inch indoor broom
1422, 1422A	18-inch heavy-duty broom
1423, 1423A	Outdoor rough 18-inch broom
1425A	24-inch soft-sweeping indoor push broom
1426A	24-inch medium sweeping push broom
1434, 1434A	24-inch heavy-duty contractor-grade push broom
1435, 1435A	24-inch rough-surface push broom
574552A	24-inch squeegee

24 9. Defendants marketed their products to distributors as incorporating FlexSweep
 25 connectors, including by describing its products as “Laitner FlexSweep” brooms and
 26 squeegees and as containing “flexsweeps [sic] patented shock absorbing connector.”

27 10. In 2013, plaintiff registered the trademark “FlexSweep” with the Patent and
 28

1 Trademark Office for use on brooms and mops.

2 11. In 2015, defendants stopped incorporating FlexSweep connectors into their
3 products.

4 12. Defendants neither told its distributors that their products no longer incorporated
5 FlexSweep connectors nor changed the product numbers. As a result, defendants'
6 distributors continued marketing the products as incorporating FlexSweep connectors.

7 13. The continued distribution of defendants' brooms and squeegees as incorporating
8 FlexSweep connectors has taken advantage of plaintiff's goodwill in the name
9 "FlexSweep." It has injured plaintiff by depriving it of sales to persons intending to buy its
10 unbreakable connector. Defendants have caused plaintiff injury in an amount to be
11 determined at trial.

12 14. Plaintiff's injuries are irreparable because it cannot recover the goodwill that
13 defendants have taken advantage of.

14 15. Unless this court requires defendants to notify their customers that its products do
15 not contain FlexSweep connectors, plaintiff will continue to suffer irreparable injury.

17 **SECOND COUNT (False Description, against all defendants)**

18 16. Plaintiff incorporates paragraphs 1 through 15 into this count.

19 17. After defendants stopped buying plaintiff's connectors, they marketed their
20 brooms as having a "patented unbreakable connector."

21 18. Defendants' description of the new connectors is misleading. A design patent
22 protects the connectors. To the average consumer, the word "patented" connotes a
23 technological innovation, not a unique design. Defendants strengthened that connotation
24 by juxtaposing to "patented" the word "unbreakable," suggesting that the patent concerns
25 to the connector's unbreakable nature.

26 19. Defendants misleading description of its connectors injures plaintiff because it has
27 the only invention patent for an unbreakable connector.

28 20. Defendants' misleading description of its connector has caused plaintiff to lose

1 sales of its patented connector in an amount to be determined at trial.

2 Defendants' continued use of its connector as patented will cause plaintiff
3 irreparable injury.

5 WHEREFORE, plaintiff prays judgment as follows:

6 1. Compensatory damages;
7 2. Preliminary and permanent injunctions (1) mandating that defendants inform their
8 distributors that its products no longer incorporate defendants' connectors and (2)
9 prohibiting defendants from describing their products as containing "patented
10 unbreakable" connectors when no invention patent protects them.

11 3. Costs of suit, including reasonable attorney's fees.

13 Dated: November 29, 2018

14 James C. Eschen
15 Attorney for plaintiff Cassar Industries,
16 Inc.